

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION

CIVIL CASE NO. 2:09cv49

GREGORY BADER,)
)
Plaintiff,)
)
vs.) **O R D E R**
)
CREIGHTON W. SOSSOMON,)
)
Defendant.)
)
_____)

THIS MATTER is before the Court on the Plaintiff's Motion for Partial Summary Judgment [Doc. 14].

The Defendant, who is an attorney, appears in this matter in a *pro se* status. Out of an abundance of caution, the Court will provide the notice dictated by the United States Fourth Circuit Court of Appeals in Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975).

The Defendant is cautioned that he carries a heavy burden in responding to a motion for summary judgment. Rule 56(e) of the Federal Rules of Civil Procedure provides:

When a motion for summary judgment is properly made and supported, an opposing party may not rely merely on allegations

or denials in its own pleading; rather, its response must--by affidavits or as otherwise provided in this rule--set out specific facts showing a genuine issue for trial. If the opposing party does not so respond, summary judgment should, if appropriate, be entered against that party.

Fed.R.Civ.P. 56(e)(2).

This language means that if the Defendant has any evidence to offer to show that there is a genuine issue for trial, he must now present it to the Court in a form which would otherwise be admissible at trial; that is, in the form of affidavits or unsworn declarations. An affidavit is a written statement made under oath; in other words, a statement prepared in writing and sworn before a notary public. An unsworn statement, made and signed under the penalty of perjury, may also be submitted.

Affidavits or statements must be presented, if at all, by the Defendant to this Court on or before June 18, 2010. As stated in Rule 56(e)(2), the Defendant's failure to respond may result in the entry of partial summary judgment in favor of the Plaintiff.

IT IS, THEREFORE, ORDERED that the Defendant may respond in accordance with Federal Rule of Civil Procedure 56(e)(2) on or before June 18, 2010.

Signed: June 3, 2010



Martin Reidinger
United States District Judge

